

more visible and that reflectorization could be a practical method of doing so. This commenter, however, recognized the limits of any program designed to enhance the visibility of trains, including reflectorization, and explained that "[t]he most visible train is only as safe as the motor vehicle operator who encounters it." FRA strongly agrees with this statement and recognizes that reflectorization will provide only a partial solution to the safety issues surrounding highway-rail grade crossings. FRA recognizes, and feels it worthy of emphasis, that nothing in this rule relieves motorists from the responsibility to be alert at highway-rail crossings and use due diligence in operating motor vehicles safely, even during times of limited visibility.

F. The Proposed Rule

Based upon the information currently available, FRA believes that reflectorization of rail freight rolling stock is a feasible method of enhancing rail car visibility that would likely improve safety in a cost-effective manner. Accordingly, as the Federal agency responsible for ensuring that America's railroads are safe for the traveling public and in direct response to the Congressional directive of 49 U.S.C. 20148, FRA is proposing to require the use of reflective material on the sides of certain rail cars and locomotives.

Generally, this rule proposes that all freight cars and locomotives that operate over a public or private highway-rail grade crossing in the United States in revenue or work train service be equipped with retroreflective sheeting on both sides. This rule contemplates that conforming retroreflective sheeting will be applied to freight cars on a fleet basis so that each segment of the freight car fleet is brought into compliance within ten years, and each segment of the locomotive fleet is brought into compliance within five years. To ensure the most efficient and cost-effective implementation of the rule, FRA proposes that retroreflective sheeting be applied to new freight rolling stock at the time of construction, and to existing stock when such stock is being repainted, rebuilt, or is undergoing other periodic maintenance.

This rule proposes specific color, construction, placement, and performance requirements for the required retroreflective sheeting and also sets forth a schedule for the application, inspection, and maintenance of the sheeting. The performance requirements set forth in this proposal are based on the material as it is initially applied. In other words,

FRA has chosen to impose color, type, size, and placement requirements that ensure sufficient reflectivity will be retained over time, despite the harsh railroad operating environment. The amount and placement of retroreflective sheeting required to be applied to freight rolling stock pursuant to this part depends on the size of the freight car or locomotive, as well as the car type. Generally, however, this rule proposes a vertical pattern of retroreflective material along the entire side of freight rolling stock, as the physical configuration of various equipment types allows.

In drafting this rule, FRA has carefully considered the comments submitted to the docket of this proceeding and has attempted to devise a rule which will ensure the most efficient and cost-effective implementation of a nationwide reflectorization program which will provide valuable safety benefits to both the railroad industry and the motoring public. FRA anticipates that many constructive comments will result from public analysis of this proposal and that the proposed rule may be changed as a result of the public input. As such, FRA invites public comments on all aspects of this proposed rule.

Section-by-Section Analysis

Section 224.1 Purpose and Scope

This section contains a formal statement of the proposed rule's purpose and scope. FRA intends that the rule cover all aspects of reflectorization of freight rolling stock, including but not limited to, the size, color, placement, and performance standards of the reflective material, as well as the schedule for the application, inspection, and maintenance of the material.

Paragraph (a) states that the proposed rule is intended to reduce highway-rail grade crossing accidents, deaths, injuries, and property damage resulting from those accidents by enhancing the conspicuity of rail freight rolling stock as to increase its detectability by motor vehicle operators at night and under conditions of poor visibility. Paragraph (b) explains that the proposed rule establishes the duties of freight rolling stock owners and railroads to progressively apply retroreflective material to freight rolling stock, and to periodically inspect and maintain that material in order to achieve cost-effective mitigation of collision risk at highway-rail grade crossings. Paragraph (c) explains that the proposed rule establishes a schedule for the application of retroreflective material to

rail freight rolling stock and prescribes standards for the application, inspection, and maintenance of retroreflective material to rail freight rolling stock for the purpose of enhancing its detectability at highway-rail grade crossings. This rule will not restrict freight rolling stock owners from applying retroreflective material to freight rolling stock on an accelerated schedule, nor will this rule restrict freight rolling stock owners from applying additional reflective material as long as any such additional material does not interfere with the recognizable pattern contemplated in proposed § 224.105. Freight rolling stock owners, however, are under no duty to install, maintain, or repair reflective material except as specified in this rule.

Section 224.3 Applicability

This section proposes that this rule apply to all freight cars and locomotives used for revenue or work train service that operate over a public or private highway-rail grade crossing and are used for revenue or work train service. FRA is aware that cars with Canadian reporting marks are used extensively within the United States. Transport Canada has previously administered a reflectorization program for Canadian cars, and FRA expects that Transport Canada will take actions in parallel with this proposal to handle the North American fleet.

This part will not apply to (1) freight railroads that operate only on track inside an installation that is not part of the general railroad system of transportation, (2) rapid transit operations within an urban area that are not connected to the general system of transportation, or (3) locomotives or passenger cars used exclusively in passenger service. Although FRA recognizes that both public and private grade crossings may be found on plant railroads and freight railroads that are not part of the general railroad system of transportation, these operations typically involve low speed vehicular traffic and FRA has not determined that reflectorization would be helpful in these areas. These reasons, together with the historical basis for not asserting jurisdiction over insular rail operations, leads FRA to propose not to exercise jurisdiction over public and private crossings at such plant and private railroads. FRA does, of course, retain the statutory right to assert jurisdiction in this area and will do so if circumstances warrant.

Paragraph (c) provides that this rule will not apply to locomotives and passenger cars used exclusively in passenger service. FRA proposes to